

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**HARRY SMITH, JR. AND ROSLYN**  
WOODARD SMITH, INDIVIDUALLY AND AS  
ADMINISTRATORS OF THE ESTATE OF  
HARRY SMITH, III

PLAINTIFFS,

v.

**JOHN CIRITELLA, THOMAS DEMPSEY,**  
**AND MATTHEW KURTEN,**

DEFENDANTS.

CASE No. 04-1254-GMS

**VERDICT FORM**

**I. The Constitutional Claims**

1. Do you find by a preponderance of the evidence that any of the defendants used excessive force and deprived Harry Smith, III of his rights under the United States Constitution or the Delaware Constitution?

John Ciritella	YES _____	NO <u>X</u> _____
Thomas Dempsey	YES _____	NO <u>X</u> _____
Matthew Kurten	YES _____	NO <u>X</u> _____

**Instruction:**

**If your answer is "Yes" to any of the above, go to question 2.**

**If your answer is "No," go to question 3. Do not answer question 2.**

2. State the amount you award to the Estate on behalf of Harry Smith, III.

\$ \_\_\_\_\_

**Instruction: Go to question 3.**

**II. The State Law Claim For Wrongful Death**

3. Do you find by a preponderance of the evidence that any of the defendants wrongfully caused the death of Harry Smith, III?

John Ciritella	YES _____	NO <u>X</u> _____
Thomas Dempsey	YES _____	NO <u>X</u> _____
Matthew Kurten	YES _____	NO <u>X</u> _____

**Instruction:**

**If your answer is "Yes" to any of the above, go to question 4.**

**If your answer is "No" to all of the above, you are finished. Do not answer the remaining questions.**

4. For each defendant for whom you checked "YES" in response to the previous question, do you find this defendant used excessive force and acted wantonly or with willful and malicious intent?

John Ciritella	YES _____	NO _____	NOT APPLICABLE _____
Thomas Dempsey	YES _____	NO _____	NOT APPLICABLE _____
Matthew Kurten	YES _____	NO _____	NOT APPLICABLE _____

**Instruction:**

**If you answered "Yes" to any of the above, go to question 5.**

**If you answered "No" or "Not Applicable" to question 4, skip question 5.**

5. State the amount you award to Harry Smith, Jr. and Roslyn Woodward Smith.

\$ \_\_\_\_\_

**Instruction:**

**If you answered "Yes" to question 1, go to questions 6, 7 and 8.**

**If you answered "No" to question 1, you are finished.**

6. Do you find that the defendants acted with malice or wantonly?

John Ciritella YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Thomas Dempsey YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Matthew Kurten YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

**Instruction:**

**If you answered "Yes" to question 6, go to question 7.**

**If you answered "No" to question 6, you are finished.**

7. For each defendant for whom you checked "YES" in response to the previous question, do you award punitive damages against that defendant?

John Ciritella YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Thomas Dempsey YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Matthew Kurten YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

**Instruction:**

**If you answered "Yes" to any defendant in question 7, go to question 8.**

**If you answered "No" to all defendants in question 7, you are finished.**

8. For each defendant for whom you checked "YES" in response to the previous question, state the amount of punitive damages you award against that defendant.

John Ciritella \$ \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Thomas Dempsey \$ \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Matthew Kurten \$ \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

**Instruction:**

**If you answered "Yes" to questions 1 or 3, go to questions 9, 10 and 11.**

**If you answered "No" to questions 1 and 3, you are finished.**

**III. General**

8. Do you find by a preponderance of the evidence that defendant John Ciritella was not placed in danger by Harry Smith, III?

YES \_\_\_\_\_

NO \_\_\_\_\_

9. Do you find by a preponderance of the evidence that after Harry Smith, III passed the Jeep he did not present an imminent threat of serious injury or death to other persons?

YES \_\_\_\_\_

NO \_\_\_\_\_

10. Do you find by a preponderance of the evidence that defendants continued to shoot at Harry Smith, III after the car stopped.

YES \_\_\_\_\_

NO \_\_\_\_\_

Signed this 17 day of April, 2007

REDACTED